

**COMBINED DECLARATION AND POWER
OF ATTORNEY FOR PATENT APPLICATION**

DECLARATION:

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled A NASAL MASK AND MASK CUSHION THEREFOR, filed on January 26, 1999, as Serial No. 09/230,491.

The person(s) named as inventor(s) in this application are Philip Rodney KWOK and Robert Edward STYLES.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a), as attached.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent of inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

- ☐ no such applications have been filed.
☒ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119/365			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
Australia	PO1265	26 July 1996	Pending
ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. or PCT APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
PCT/AU97/00450	16 July 1997	Pending

POWER OF ATTORNEY:

As a named inventor, I hereby appoint the following patent attorneys to prosecute this application and transact all business in the Patent Office connected therewith:

Lee R. Osman, Reg. No. 38,260;
William J. Kubida, Reg. No. 29,664;
F.A. "Sandy" Sirr, Reg. No. 17,265;
Earl C. Hancock, Reg. No. 19,472;
Carol W. Burton, Reg. No. 35,465;
John R. Wahl, Reg. No. 33,044;
Stuart T. Langley, Reg. No. 33,940;
James A. Pinto, Reg. No. 40,774;

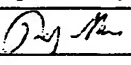
Elizabeth S. Cohen, Reg. No. 36,670;
Robert G. Crouch, Reg. No. 34,806;
Robert H. Kelly, Reg. No. 33,922; and
Patrick T. McBride, Reg. No. 39,295.

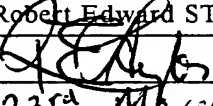
Send all correspondence relating to this matter to:

Lee R. Osman, Esq.
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555 17th Street, Suite 3200
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Direct all telephone calls to **Lee R. Osman** at (303) 295-8589.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name:	Philip Rodney KWOK
Inventor's Signature:	
Date:	29 March 1999
Residence: (City, State and/or Country)	Chatswood, New South Wales, AUSTRALIA
Citizenship:	Australia
Post Address Office:	15 Davies Street Chatswood, New South Wales 2067 AUSTRALIA

Inventor's Full Name:	Robert Edward STYLES
Inventor's Signature:	
Date:	23rd March 1999
Residence: (City, State and/or Country)	Glenhaven, New South Wales, AUSTRALIA
Citizenship:	Australia
Post Address Office:	35 Linksley Avenue Glenhaven, New South Wales 2156 AUSTRALIA

§ 1.56 duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Each other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of
Inventor(s): KWOK et al

Group Art Unit: 3735

Examiner:

Appln. No.: 09/230,491

series code ↑ ↑ serial no.

Atty. Dkt: PM 270826 / P20US2
M# / Client Ref.

Filing Date: January 26, 1999

Title: A NASAL MASK AND MASK CUSHION THEREFOR

POWER OF ATTORNEY FROM ASSIGNEE AND REVOCATION OF PRIOR POWERS

Asst. Commissioner of Patents
Washington, D.C. 20231

Sir:

The undersigned being the assignee of record in the above-entitled patent application as shown by the chain of title from the original owners to the assignee in the **Assignment submitted to the USPTO for recordation on April 17, 2000 (copy attached), but not yet returned from the USPTO** hereby revokes all previous powers and appoints Pillsbury Madison & Sutro LLP, Intellectual Property Group, 1100 New York Avenue, NW, Ninth Floor, Washington, DC 20005-3918, telephone (202) 861-3000 (to whom all communications about this application are to be directed), and the below named persons (of the same address), individually and collectively, our attorneys to prosecute this patent application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent:

Paul N. Kokulis	16773
Raymond F. Lippitt	17519
G. Lloyd Knight	17698
Carl G. Love	18781
Kevin E. Joyce	20508
George M. Sirilla	18221
Donald J. Bird	25323
Peter W. Gowdey	25872
Dale S. Lazar	28872
Glenn J. Perry	28458
Kendrew H. Colton	30368
Paul E. White, Jr.	32011
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W. Patrick Bengtsson	32456
Jack S. Barufka	37087
Adam R. Hess	41835
William P. Atkins	38821
Paul L. Sharer	36004

ResMed Limited

Assignee

By

Name: Paul Green

Title: Patents Officer

Date

Atty/Sec: GJP/MLM